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14 HSBC MORTGAGE CORPORATION (USA) and
15 HSBC BANK USA, N.A.

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 Philip Wong, Frederic Chaussy, and Leslie
20 Marie Shearn, individually, on behalf of all
21 others similarly situated, and on behalf of
22 the general public,

23 Plaintiffs,

24 v.

25 HSBC Mortgage Corporation (USA);
26 HSBC Bank USA, N.A.; and DOES 1
27 through 50, inclusive,

28 Defendants.

Case No. C 07 2446 MMC [ECF]

**[PROPOSED] ORDER STRIKING
EVIDENCE SUBMITTED IN SUPPORT
OF PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION UNDER
FED.R.CIV.P. 23**

Date: October 10, 2008
Time: 9:00 a.m.
Courtroom: 7 (19th Floor)
Judge: Hon. Maxine M. Chesney

1 On October 10, 2008, Plaintiffs' Motion for Class Certification Under Federal Rule of
2 Civil Procedure 23 ("Rule 23 Class Certification Motion") came on for hearing at 9:00 a.m. before
3 the Honorable Maxine M. Chesney. Plaintiffs and Defendants were both represented by counsel.

4 For all the reasons set forth in Defendants' Objections to Evidence Submitted By
5 Plaintiffs' In Support of Motion For Class Certification Under Fed.R.Civ.P 23, the record herein,
6 and based on the arguments of counsel, the Court orders as follows:

7 1. Information or "evidence" listed in the Declaration of Bryan J. Schwartz, Esq.
8 in Support of Plaintiffs' Motion for Class Certification ("Schwartz Declaration") at paragraph 28,
9 page 4, lines 11 to 17, and all references to the same in Plaintiffs' Rule 23 Class Certification Motion
10 to this inadmissible evidence located at page 8, lines 9 to 13 shall be stricken.

11 2. Information or "evidence" listed in the Schwartz Declaration at paragraph 28,
12 page 4, lines 17 to 19, and all references in Plaintiffs' Rule Class Certification Motion to this
13 inadmissible evidence located at page 8, lines 15 to 17, and page 20, lines 11 to 12 shall be stricken.

14 3. Information or "evidence" listed in the Schwartz Declaration at paragraph 29,
15 page 4, lines 24 to 28, and all references in Plaintiffs' Rule 23 Class Certification Motion located at
16 page 8, lines 17 to 19, and page 20, lines 15 to 17 shall be stricken.

17 4. Information or "evidence" listed in the Schwartz Declaration at paragraph 30,
18 page 5, lines 1 to 3, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
19 inadmissible statement and opinion are located at page 8, lines 20 to 23 shall be stricken.

20 5. Information or "evidence" listed in the Schwartz Declaration at paragraph 30,
21 page 5, lines 3 to 6, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
22 inadmissible evidence located at page 9, lines 2 to 3 shall be stricken.

23 6. Information or "evidence" listed in the Schwartz Declaration at paragraph 32,
24 page 5, lines 16 to 19, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
25 inadmissible evidence located at page 14, lines 8 to 9, and page 24, lines 7 to 10 shall be stricken.

26 7. Information or "evidence" listed in the Schwartz Declaration at paragraph 33,
27 page 5, lines 21 to 22, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
28 inadmissible evidence located at page 14, 7 to 10, and page 24, lines 2 to 3 shall be stricken.

1 8. Information or "evidence" listed in the Schwartz Declaration at paragraph 33,
2 page 6, lines 2 to 7, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
3 inadmissible evidence located at page 14, 7 to 10, and page 24, lines 2 to 3 shall be stricken.

4 9. Information or "evidence" listed in the Schwartz Declaration at paragraph 36,
5 page 7, lines 1 to 3, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
6 inadmissible evidence located at page 19, footnote 37, lines 27 to 28 shall be stricken.

7 10. Information or "evidence" listed in the Schwartz Declaration at paragraph 37,
8 page 7, lines 4 to 9, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
9 inadmissible evidence located at page 21, lines 6 to 9 shall be stricken.

10 11. Information or "evidence" listed in the Schwartz Declaration at paragraph 39,
11 page 7, lines 14 to 17, and references in Plaintiffs' Rule 23 Class Certification Motion to this
12 inadmissible evidence located at page 22, lines 8 to 12 shall be stricken.

13 12. Information or "evidence" listed in the Schwartz Declaration at paragraph 40,
14 page 7, lines 18 to 25, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
15 inadmissible evidence located at page 23, lines 10 to 15 shall be stricken.

16 13. Information or "evidence" listed in the Schwartz Declaration at paragraph 41,
17 page 7, lines 26 to 28 and page 8, lines 1 to 6, and all reference in Plaintiffs' Rule 23 Class
18 Certification Motion to this inadmissible evidence located at page 23, lines 16 to 19 shall be stricken.

19 14. Information or "evidence" listed in the Schwartz Declaration at paragraph 42,
20 page 8, lines 7 to 8, and all references in Plaintiffs' Rule Class Certification Motion to this
21 inadmissible evidence located at page 24, lines 7 to 8 shall be stricken.

22 15. Information or "evidence" listed in the Schwartz Declaration at paragraph 44,
23 page 8, lines 15 to 21, and all references in Plaintiffs' Rule 23 Class Certification Motion to this
24 inadmissible evidence located at page 3, footnote 13, lines 24 to 26 shall be stricken.

25 16. Vague and misleading references to "HSBC" shall be stricken from page 1,
26 paragraph 1 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

27 17. Vague and misleading references to "HSBC" shall be stricken from page 1,
28 paragraph 2 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

18. Vague and misleading references to "HSBC" shall be stricken from page 1, paragraph 3 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration, as well as from Plaintiffs' Rule 23 Class Certification Motion, which is located at page 3, lines 3 to 6.

19. Vague and misleading references to "HSBC" shall be stricken from page 2, paragraph 5 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

20. Vague and misleading references to "HSBC" shall be stricken from page 2, paragraph 6 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

21. Vague and misleading references to "HSBC" shall be stricken from page 2, paragraph 7 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

22. Vague and misleading references to "HSBC" shall be stricken from page 2, paragraph 8 of Exhibit 2 (Declaration of Godwin Tsui) to the Schwartz Declaration.

23. Vague and misleading references to "HSBC" shall be stricken from page 1, paragraph 1 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

24. Vague and misleading references to "HSBC" shall be stricken from page 1, paragraph 2 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

25. Vague and misleading references to "HSBC" shall be stricken from page 1, paragraph 3 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

26. Vague and misleading references to "HSBC" shall be stricken from page 2, paragraph 4 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

27. Vague and misleading references to "HSBC" shall be stricken from page 2, paragraph 6 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

28. Inadmissible evidence shall be stricken from page 2, paragraph 7 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

29. Vague and misleading references to "HSBC" shall be stricken from page 2, paragraph 8 of Exhibit 9 (Declaration of Leslie Marie Shearn) to the Schwartz Declaration.

30. Vague and misleading references to "HSBC" shall be stricken from page 1, paragraph 1 of Exhibit 10 (Declaration of Chad Barbieri) to the Schwartz Declaration.

1 31. Vague and misleading references to “HSBC” shall be stricken from page 1,
2 paragraph 2 of Exhibit 10 (Declaration of Chad Barbieri) to the Schwartz Declaration.

3 32. Vague and misleading references to “HSBC” shall be stricken from page 1,
4 paragraph 3 of Exhibit 10 (Declaration of Chad Barbieri) to the Schwartz Declaration.

5 33. Vague and misleading references to “HSBC” shall be stricken from page 2,
6 paragraph 4 of Exhibit 10 (Declaration of Chad Barbieri) to the Schwartz Declaration.

7 34. Vague and misleading references to “HSBC” shall be stricken from page 2,
8 paragraph 6 of Exhibit 10 (Declaration of Chad Barbieri) to the Schwartz Declaration.

9 35. Vague and misleading references to “HSBC” shall be stricken from page 2,
10 paragraph 7 of Exhibit 10 (Declaration of Chad Barbieri) to the Schwartz Declaration.

11 36. Vague and misleading references to “HSBC” shall be stricken from page 2,
12 paragraph 8 of Exhibit 10 (Declaration of Chad Barbieri) to the Schwartz Declaration.

13 37. The anonymous declaration submitted by Plaintiffs as Exhibit 15 to the
14 Schwartz Declaration shall also be stricken on the grounds that it fails to establish that the
15 anonymous witness has personal knowledge the facts at issue. Moreover vague, misleading
16 references to "HSBC" should be stricken from page 1, paragraph 1 to 3 of Exhibit 15 to the Schwartz
17 Declaration. Further, references to this inadmissible declaration and/or the evidence therein located
18 at page 8, lines 20 to 25, and page 20, lines 11 to 12 should be stricken from Plaintiffs' Rule 23 Class
19 Certification Motion.

20 38. Exhibits 20 to 23 to the Schwartz Declaration should also be stricken for
21 failure to follow the procedural requirements for judicial notice under Federal Rule of Evidence 201.

22 **IT IS SO ORDERED.**

23
24 Dated: _____, 2008

25
26 _____
27 THE HONORABLE MAXINE M. CHESNEY
28